



Department of Justice

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SIX CORPORATIONS AND FIVE INDIVIDUALS INDICTED IN CONNECTION WITH SCHEMES TO DEFRAUD THE FEDERAL E-RATE PROGRAM

*Schools in Seven States Affected--Arkansas, California, Michigan, New York,
Pennsylvania, South Carolina and Wisconsin*

WASHINGTON, D.C. -- A federal grand jury in San Francisco today returned a 22-count indictment against six companies and five individuals on charges of fraud, collusion, aiding and abetting, and conspiracy in connection with E-Rate projects at schools in seven states--Arkansas, California, Michigan, New York, Pennsylvania, South Carolina, and Wisconsin--the Department of Justice announced.

The E-Rate program subsidizes the provision of Internet access and telecommunications services, as well as internal computer and communications networks, to economically disadvantaged schools and libraries. The program was created by Congress in the Telecommunications Act of 1996 and is administered by the Universal Services Administrative Company (USAC), a non-profit corporation, under the auspices of the Federal Communications Commission (FCC).

"Collusion by competitors in the E-Rate program, such as bid rigging and project allocation, steals funds from some of our nation's neediest schools," said R. Hewitt Pate, Assistant Attorney General in charge of the Department's Antitrust Division. "Those who try to illegally profit from this important program will be prosecuted."

The six companies and five individuals charged with participating in the schemes to defraud the E-Rate program are:

- Video Network Communications Inc. (VNCI) - Portsmouth, New Hampshire (Counts 1-20);
- Howe Electric Inc. - Fresno, California (Counts 1, 10, 12, 20);
- Sema4 Inc. - San Juan Capistrano, California (Count 11);
- Digital Connect Communications - San Juan Capistrano, California (Counts 21, 22);
- Expedition Networks, Ltd. - North Hills, California (Counts 21, 22);
- ADJ Consultants Inc. (ADJ) - Temecula, California (Counts 1, 2, 11, 12, 13, 21, 22);
- Judy Green - Temecula, California - Former Sales Representative for VNCI, Co-Owner of ADJ (Counts 1-22);
- Allan Green - Temecula, California - Co-Owner of ADJ (Counts 21, 22);
- George Marchelos - Saratoga, California - Former Sales Representative for VNCI (Counts 1-20, 22);
- Steven Newton - San Juan Capistrano, California - Former Vice President at Premio Computer Inc. (Counts 1, 2, 11, 21, 22); and
- Earl Nelson - Sonoma, California - Former Branch Manager for Inter-Tel Technologies Inc. (Counts 1, 2, 9, 12).

According to the 22-count indictment, the defendants charged with wire fraud and aiding and abetting in counts 1 through 11 entered into schemes to defraud the FCC and USAC on E-Rate projects at 11 school districts in California, Michigan, South Carolina, Arkansas, and Wisconsin from about November 1998 through at least sometime in November 2003.

Counts 12 through 20 of the indictment charged certain defendants with participating in, and aiding and abetting, separate conspiracies to rig bids and allocate projects at school districts in California, Michigan, South Carolina, Arkansas, and Wisconsin during the same time period.

The defendants charged with Counts 12 through 20 of the indictment and co-conspirators carried out the conspiracy by:

- Discussing prospective bids for the project;
- Agreeing who would be the lead contractor on the project and who would participate on the project as subcontractors to the designated lead contractor;
- Submitting fraudulent and non-competitive bids; and
- Engaging with Judy Green and George Marchelos who took steps to ensure the success of the conspiracy by eliminating and disqualifying bids from non-conspirators and

by ensuring that the projects were awarded to the defendants and co-conspirators. In return, some of the defendants and co-conspirators agreed to pay and paid Judy Green and VNCI, a fee and agreed to purchase and purchased and installed VNCI's equipment on the project.

Additionally, Count 21 charges three companies and three individuals with a single conspiracy to rig bids and allocate projects for 15 E-Rate projects at school districts in California, Pennsylvania, New York, South Carolina and Arkansas, beginning in October 2002 through at least January 2004, with Count 22 charging a conspiracy to commit wire and mail fraud in connection with the those same E-Rate projects.

"This alleged nationwide fraud scheme deprived underprivileged schools from a valuable Internet access program and much needed funding. This indictment sends a strong signal that defrauding federal programs and thereby jeopardizing future funding opportunities for schools will lead to criminal charges," said United States Attorney Kevin V. Ryan. "I want to thank the San Francisco FBI Field Office, the Antitrust Division of the U.S. Department of Justice, and the FCC Office of Inspector General for their invaluable contributions in bringing these charges."

The E-Rate program fosters connectivity between the Internet and schools or libraries and is funded by monies collected from telephone users. Under the E-Rate program, schools apply for monies to provide cabling, internet backbone equipment (i.e. servers, PBX, and switches), and for reimbursement of monthly connectivity service fees.

According to the indictment, the wire fraud counts allege that the charged defendants defrauded the E-Rate program by hiding the cost of equipment and fees not covered by the program in with the cost of covered equipment and made misrepresentations to the program administrator that related to the matching funds the schools were suppose to have in order to

apply for program funds. The collusion counts allege that on the 1999, 2000, and 2003 E-Rate projects the charged defendants allocated and rigged bids for the charged projects.

The indictment further alleges that the defendants conspired to violate the mail and wire fraud statutes in applications made to the E-Rate program for the 2003 projects.

The wire fraud charges, 18 U.S.C. § 1343, and the conspiracy to commit wire and mail fraud charge, 18 U.S.C. § 371, are violations which for individuals carry a maximum penalty per count of five years in jail, one year of supervised release, and a \$250,000 fine, and for organizations a maximum penalty per count of a \$500,000 fine, plus a requirement to make restitution to the victims of the crime. The collusion (bid rigging and project allocation) charges are violations of 15 U.S.C. § 1, also known as the Sherman Act, which for violations occurring before June 22, 2004 carries for individuals a maximum penalty per count of three years in jail, one year of supervised release, and a \$350,000 fine, and for organizations a maximum penalty per count of a \$10 million dollar fine.

The maximum fines for the violations charged, for both individuals and organizations, may be increased to twice the gain derived from the crime or twice the loss suffered by the victim of the crime, if either of those amounts is greater than the statutory maximum fine.

The charges announced today resulted from an ongoing federal investigation of fraud and anti-competitive conduct in the E-Rate program. The investigation is being conducted jointly by the United States Attorney's Office for the Northern District of California along with the Antitrust Division, with the assistance of the San Francisco, Los Angeles, Fresno, and Detroit offices of the Federal Bureau of Investigation.

Anyone with information concerning fraud or anti-competitive conduct in the E-Rate program should contact the Cleveland Field Office of the Antitrust Division at (216) 522-4070 or the San Francisco office of the FBI at (415) 553-7642

Attached is a chart listing the names of the defendants, offenses and projects.

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